

**THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	:	
PAUL A. WARREN	:	
	:	
Debtor	:	Bk. No. 09-16107 BIF
	:	
WELLS FARGO BANK, N.A.	:	Chapter No. 13
	:	
Movant	:	
	:	
v.	:	
	:	
PAUL A. WARREN	:	11 U.S.C. §362
	:	
Respondent	:	

**MOTION OF WELLS FARGO BANK, N.A. FOR RELIEF FROM AUTOMATIC STAY
UNDER §362 PURSUANT TO BANKRUPTCY PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN & SCHMIEG, LLP, hereby requests a termination of Automatic Stay and leave to foreclose on its mortgage on real property owned by Debtor PAUL A. WARREN.

1. Movant is **WELLS FARGO BANK, N.A.**
2. Debtor PAUL A. WARREN is the owner of the premises located at **9223 EAGLEVIEW DRIVE, LAFAYETTE HILL, PA 19444**, hereinafter known as the mortgaged premises.
3. Movant is the holder of a mortgage on the mortgaged premises.
4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.
5. Movant wishes to institute foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required hereunder.
6. The foreclosure proceedings to be instituted were stayed by the filing of the instant Chapter 13 Petition.

7. As of the date of the filing of this motion, Debtor has failed to tender post-petition mortgage payments for the months of September 2009 through December 2009. The monthly payment for the months of September 2009 through October 2009 are \$2,637.92 per month, payment for the months of November 2009 through December 2009 are \$2,594.06 per month, less suspense in the amount of \$1,442.46, for a total amount due of \$9,021.50. The next payment is due on or before January 1, 2010 in the amount of \$2,594.06. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

8. Movant, **WELLS FARGO BANK, N.A.** requests the Court award reimbursement in the amount of \$800.00 for the legal fees and costs associated with this Motion.

9. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage.

10. Rule 4001 (a)(3) should not be applicable and **WELLS FARGO BANK, N.A.** should be allowed to immediately enforce and implement the Order granting relief from the Automatic Stay.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

a. modifying the Automatic Stay under §362 with respect to the mortgaged premises as to permit Movant to foreclose on its mortgage and allow Movant or any other purchaser at Sheriff's Sale to take any legal or consensual action for enforcement of its right to possession of, or title to, said premises (such actions may include but are not limited to the signing of a deed in lieu of foreclosure or entering into a loan modification agreement) and for legal fees and costs incurred with regard to this Motion; and

b. that Rule 4001(a)(3) is not applicable and **WELLS FARGO BANK, N.A.** may immediately enforce and implement the Order granting relief from the automatic stay; and

c. granting any other relief that this Court deems equitable and just.

/s/ Andrew L. Spivack, ESQUIRE
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Dated: December 15, 2009